

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KAI KUNZ,
Plaintiff,

v.

ANTHONY J. BENEDETTI, et al.
Defendants.

C.A. No. USDC 4:12-cv-40037-TSH

LOCAL RULE 7.1 CERTIFICATE FOR MOTION TO DISMISS

To the extent this suit is against Anthony J. Benedetti in his official capacity, it is a suit against the Commonwealth of Massachusetts. By filing this certificate the Commonwealth of Massachusetts (Anthony J. Benedetti, in his official capacity) does not waive its sovereign immunity and protection from suit in Federal Court pursuant to the Eleventh Amendment of the United States Constitution. The Commonwealth of Massachusetts (Anthony J. Benedetti, in his official capacity) does not consent to this suit.

I, Nicholas A. Ogden, attempted to consult with the plaintiff, Kai Kunz, concerning Anthony J. Benedetti's motion to dismiss by calling two telephone numbers that I located in Exhibit F to the *Amended Complaint*, and which were purportedly, the plaintiff's telephone numbers. One number had no voicemail set up and the other was not accepting calls, thus I was unable to consult with Kai Kunz before a responsive pleading was due on October 30, 2013.

RESPECTFULLY SUBMITTED,

ANTHONY J. BENEDETTI

By his Attorneys

MARTHA COAKLEY
ATTORNEY GENERAL

/s/ Nicholas A. Ogden
Nicholas A. Ogden, BBO# 644007
Assistant Attorneys General
Government Bureau/Trial Division
One Ashburton Place, 18th Floor
Boston, MA 02108
nicholas.ogden@state.ma.us
(617) 727-2200 Ext. 2211

October 30, 2013

CERTIFICATE OF SERVICE

I, Nicholas A. Ogden, Assistant Attorney General, hereby certify that I have this day, October 30, 2013, served the foregoing ***Local Rule 7.1 Certificate for Motion To Dismiss***, upon all parties, by electronically filing to all ECF registered parties and by sending a copy, first class mail, postage prepaid to all unregistered parties.

/s/ Nicholas A. Ogden _____
Nicholas A. Ogden